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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,698	02/16/2005	Robert Zhong Lu	102792-420 (11031P3)	1602

27389 7590 10/13/2005

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EXAMINER

BOYER, CHARLES I

ART UNIT PAPER NUMBER

1751

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/524,698

Applicant(s)

LU ET AL.

Examiner

Charles I. Boyer

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/16/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Oneto, GB 1,247,189.

Oneto teaches a hair or body shampoo having an upper aqueous layer and a lower aqueous layer which are temporarily dispersible one in the other upon agitation of the composition (see abstract). An example of such a composition comprises 10% cocoamphodiacetate surfactant, 3% citric acid (meets the electrolyte limitation of the present claims), 7.5% cocodiethanolamide (meets the nonionic surfactant limitation of the present claims) and 0.1% alkyldimethylbenzylammonium chloride, wherein after standing, the composition exhibited two liquid phases in the volume ratio 71:29 (page 6, example 6). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

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3. Claims 1-4, 6-8, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginn, US 4,348,292.

Ginn teaches a detergent composition comprising two separate layers, one layer containing a surfactant and the other a builder (see abstract). An example of such a composition comprises 7% nonionic surfactant, 0.5% betaine surfactant, 0.45% alkyldimethylbenzylammonium chloride, and citric acid when the composition is used in a ratio of 1:9 surfactant layer to builder layer (col. 5, example III in view of col. 4, lines 59-61). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Claims 1-8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Winkler, WO 00/24852.

Winkler teaches a detergent composition comprising two aqueous phases containing a surfactant and electrolyte (see abstract). An example of such a composition comprises 0.9% amphoteric surfactant, 3.75% sodium sulfate/sodium carbonate, 2% ethoxylated alcohol, and 2% didecyldimethylammonium chloride (page 14, example XIII). As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeschke et al, US 6,440,924.

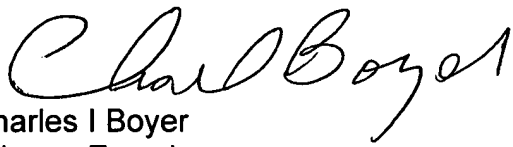
Jeschke et al teach aqueous multiphase detergents with immiscible phases (see abstract). An example of such a composition contains two continuous phases comprising 4% anionic surfactant, 3% nonionic surfactant, and 10% sodium chloride/sodium gluconate (col. 7, example E5). The compositions of the invention may contain mixtures of anionic, cationic, amphoteric, and nonionic surfactants (col. 3, lines 50-53) and the cationic surfactants are germicidal, are selected from didicyldimethylammonium chloride, alkylbenzyldimethylammonium chloride, and mixtures thereof, and are present in amounts as high as 5% (col. 5, lines 42-51). Note that these compositions form two phases, an upper phase which contains the surfactants, and a lower phase which contains the builder, i.e. electrolyte (col. 8, lines 12-15). Jeschke et al do explicitly teach applicants' combination of surfactants, however, as mixtures of surfactants, including germicidal cationic surfactants, are contemplated by the reference, it would have been obvious to one of ordinary skill in the art to add a cationic surfactant to example E5 and so meet the material limitations of the claims at hand.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-F 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571 272 1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charles I Boyer  
Primary Examiner  
Art Unit 1751